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10/608,660

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EXAMINER

DEAK, LESLIE R

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KARLA WEAVER and JIM CULHANE

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Appeal 2007-4031  
Application 10/608,660  
Technology Center 3700

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Decided: March 26, 2008

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Before TERRY J. OWENS, MURRIEL E. CRAWFORD, and HUBERT C.  
LORIN, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 1, 4-12, 15, 16 and 18-34. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellants invented a pressure activated valve which includes a first biasing member coupled to a first flexible member (Specification 2).

Claim 1 under appeal reads as follows:

1. A valve for controlling material flow through a catheter, comprising

a first flexible member formed as a first sheet of polymeric material including first and second flaps separated from one another by a first slit, the first and second flaps moving, when subjected to a fluid pressure of at least a predetermined threshold level, to an open position so that material may flow past the first flexible member through a first lumen of the catheter, the first and second flaps remaining closed at all times when a fluid pressure exerted thereagainst is less than the threshold level, to prevent flow through the first lumen; and

a first biasing member coupled to the first flexible member for biasing the first and second flaps toward the closed position.

The Examiner rejected claims 1, 4-6, 8, 15, and 33 under 35 U.S.C. § 102(b) as being anticipated by Brown.

The Examiner rejected claims 29 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Brown.

The Examiner rejected claims 9-12, 16, 18, 22-27, 30, 32 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Powers in view of Brown.

The Examiner rejected claims 19-21 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Powers in view of Brown and Cushman.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Cushman	US 3,621,557	Nov. 23, 1971
Brown	US 4,991,745	Feb. 12, 1991
Powers	US 5,810,789	Sep. 22, 1998

Appellants contend that Brown does not disclose a first biasing member coupled to a first flexible member.

### ISSUES

Whether the Appellants have shown that the Examiner erred in finding that Brown discloses a first biasing member coupled to a first flexible member for biasing the first and second flaps toward a closed position.

### FINDINGS OF FACT

Brown discloses a valve 1 which includes ribs 7 which extend between the center and outer areas 5 and 6 of valve 1 (col. 6, ll. 37 to 40; Figure 5). The ribs 7 are integral with the flexible area 5. The ribs 7 selectively stiffen and support the center valve area member 5 to facilitate shifting the valve 1 orifice from an open position to a closed position (Brown, col. 6, ll. 44-60). The ribs 7 perform no biasing function and therefore are not biasing members.

### ANALYSIS

We will not sustain the rejection of claims 1, 4-6, 8, 15, and 33 under 35 U.S.C. § 102(b) as being anticipated by Brown because Brown does not disclose biasing members coupled to a flexible member as required by claim 1 from which claims 4-6, 8, 15 and 33 depend. While the ribs 7 do selectively stiffen the flexible member, there is no disclosure in Brown that the ribs 7 bias the first and second flap in a closed position or perform any biasing action. Rather, the ribs attach the center 5 to the outer area 6 of the

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valve. In addition, the ribs 7 are integral with flexible member 5 rather than being coupled thereto.

We will likewise not sustain the remaining rejections of the Examiner under 35 U.S.C. § 103. We note that Brown does not disclose nor does Brown suggest biasing members for biasing the first and second flaps toward the closed position. In each of the remaining rejections, the Examiner relies on Brown for disclosing biasing members for biasing the first and second flaps toward the closed position.

The decision of the Examiner is *reversed*.

REVERSED

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